

IN THE DISTRICT COURT OF THE UNITED STATES  
FOR THE MIDDLE DISTRICT OF ALABAMA  
NORTHERN DIVISION

CHARLES A. PEARSON,  
AIS # 182691,

Plaintiff,

V.

K.L. BYRD, *et al.*,

Defendants.

CIVIL ACTION NO. 2:06cv828-CSC  
(WO)

## ORDER

For good cause, it is

ORDERED as follows:

1. The jury trial presently set on December 10, 2007, be and is hereby RESET to June 23, 2008, at 10:00 a.m. in courtroom 4B, United States Courthouse Complex, One Church Street, Montgomery, Alabama.
2. The persons having custody of the plaintiff shall produce the plaintiff for jury selection and trial.
3. **WITNESSES.**

(a) All parties shall file a witness list at last 20 days before the trial.

Witnesses not on the list will not be heard.

(b) *Cases Proceeding In Forma Pauperis*. If the plaintiff desires to procedure attendance of witnesses by writ or subpoena, he shall file and serve – not later than 20 days before trial – a witness list containing the names, AIS number where

applicable and addresses of *all* witnesses – whether a subpoena is sought or not – (inmate or civilian status) and a brief statement of the expected testimony of each witness. M.D. ALA. LR 45.1(b). The plaintiff should be specific in stating the witnesses’ expected testimony, because if their testimony is not material or is simply repetitive the court may in its discretion decline to order the subpoena of the witness. *See Cook v. Bounds*, 518 F.2d 779, 780 (4<sup>th</sup> Cir. 1975).

Whether the witness is subpoenaed by a pauper or not, Rule 45(c) requires that your subpoena must be accompanied by an attendance fee (\$40.00 per day), a subsistence fee (\$99.00 per day) if overnight stay is required, and actual expenses of a common carrier or mileage (44.5¢ per mile each way), or it need not be obeyed. The witness will be so informed by the subpoena. It is the responsibility of the party requesting the subpoena to provide that money to the clerk’s office for tender with the subpoena.

(c) *Subpoena by Non-Paupers*. Subpoenas may be served in accordance with FED.R.CIV.P. 45(b). If service by the United States Marshal is requested, the subpoena must be filed not less than 14 calendar days prior to the date of the trial and must contain the complete name and address of the witness. M.D. ALA. LR 45.1(a)(1).

Done this 4<sup>th</sup> day of December, 2007.

/s/Charles S. Coody  
CHARLES S. COODY  
CHIEF UNITED STATES MAGISTRATE JUDGE